



17-652

Comptroller General
of the United States
Washington, D.C. 20548

Decision

Matter of: Sandia Die & Cartridge
File: B-244584
Date: October 16, 1991

Bruce Hertzler and R.R. (Dick) Flowers, Jr., Esq.,
Fairfield, Farrow, Hunt, Reecer & Strotz, for the protester.
Millard F. Pippin, Department of the Air Force, for the
agency.
Jennifer Westfall-McGrail, Esq., Office of the General
Counsel, GAO, participated in the preparation of the
decision.

DIGEST

Protest is dismissed as untimely where not filed within
10 days after protester received oral notification that its
bid was being rejected due to its failure to submit
descriptive literature.

DECISION

Sandia Die & Cartridge protests the rejection of its bid
under invitation for bids (IFB) No. F08629-91-B-0010, issued
by the Department of the Air Force for 9 by 19 millimeter
subsonic cartridge ammunition. Sandia complains that its
bid was improperly rejected as nonresponsive due to its
failure to submit descriptive literature.

We dismiss the protest as untimely because it was filed more
than 10 working days after the protester was orally informed
that its bid had been rejected due to its failure to furnish
descriptive literature.

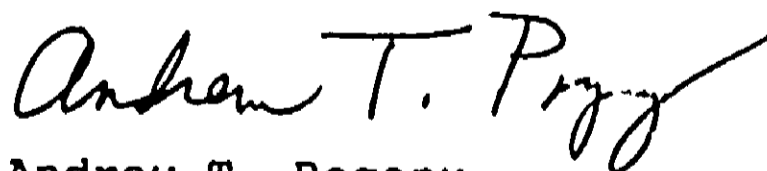
Our Bid Protest Regulations contain strict rules requiring
timely submission of protests. Under these rules, protests
not based upon alleged improprieties in a solicitation must
be filed no later than 10 working days after the protester
knew, or should have known, of the basis for protest,
whichever is earlier. 4 C.F.R. § 21.2(a)(2) (1991). In
this regard, a protester's receipt of oral information
forming the basis of its protest is sufficient to start the
10-day time period running; written notification is not
required. Swafford Indus., B-238055, Mar. 12, 1990, 90-1
CPD ¶ 268.

Here, the agency states that during the course of a telephone conversation on May 29, 1991, a representative of the contracting officer informed Sandia's president that the agency would be rejecting its bid because of a lack of descriptive literature. Sandia's president disputes the content of this conversation, alleging that he was told on May 29 only that his company "probably" would not receive the award. According to Sandia's president, it was not until a second phone conversation the following week that he was informed that the firm's bid in fact "was rejected because of failure to provide descriptive literature."

Under either version of the events, Sandia's protest to our Office was untimely filed. Even assuming that the protester was not informed until the week following May 29 that its bid was definitely being rejected, it must have learned of the rejection by Friday, June 7 (the final workday of the following week), at the latest. Thus, to be timely, its protest would have had to be filed with our Office on or before June 21. Instead, Sandia filed its protest with our Office on June 24.

The protester requests that we consider its protest under the good cause exception to our timeliness regulations, 56 Fed. Reg. 3759 (1991) (to be codified at 4 C.F.R. § 21.2(c)). We apply the good cause exception only where compelling circumstances beyond the protester's control prevented the protester from filing a timely protest. pH-logistics, Inc.--Recon., B-244162.2, June 27, 1991, 91-1 CPD ¶ 611. The protester has not alleged any such circumstances here. It asserts only that it is a small business with limited experience dealing with the government. Neither a protester's status as a small business nor its lack of familiarity with our bid protest procedures provides a basis for excusing the untimely filing of a protest. Id.

The protest is dismissed.



Andrew T. Pogany
Acting Assistant General Counsel